

Notice of Allowability**Application No.**

10/564,347

Examiner

REI-TSANG SHIAO

Applicant(s)

KIM ET AL.

Art Unit

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed on August 01, 2008.
2. ☒ The allowed claim(s) is/are 1-9 and 16, now are 1-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date _____.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/REI-TSANG SHIAO /
Primary Examiner, Art Unit 1626

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 8/1/08, 9/15/08, 10/09/08.

DETAILED ACTION

1. This application claims benefit of the provisional application: 60/489,630 with a filing date 07/24/2003.
2. Amendment of claims 1-2 and 13 and cancellation of claims 10-15 and 17-30 in the amendment filed on August 01, 2008 is acknowledged. Claims 1-9 and 16 are pending in the application.

Information Disclosure Statement

3. Applicant's Information Disclosure Statements, filed on September 28, 2008, October 09, 2008 and August 01, 2008 have been considered. Please refer to Applicant's copies of the 1449's submitted herein.

EXAMINER'S AMENDMENT

4. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this examiner's amendment was given in a telephone interview with Li Su on October 23, 2008. The application has been amended as follows:

In claim 9, line 1, after "A method of", delete "modulating", and insert

--inhibiting--

In claim 16, line 1, after "cancer", and insert

--selected from the group consisting of brain cancer, prostate cancer, colorectal cancer, small cell lung cancer, non-small cell lung cancer, renal cell carcinoma and endometrial carcinoma, --

Reasons for Allowance

5. The rejection of claims 9 and 16 under 35 U.S.C. 112, first paragraph has been overcome by the above Examiner's amendment. Since claims 10-13 and 17 have been canceled, the rejection of claims 10-13 and 17 under 35 U.S.C. 112, first paragraph has been obviated herein.
6. Since the instant variable R3 does not represent hydrogen or substituted alkyl, therefore the rejection of claims 1-9 and 16 under 35 U.S.C. 103(a) over Trotter et al. '615 has been overcome in the amendment filed on August 01, 2008. Since claims 10-13 and 17 have been canceled, the rejection of claims 10-13 and 17 under 35 U.S.C. 103(a) has been obviated herein.
7. Since the provisional rejection of claims 1-9 and 16 under the obviousness-type double patenting over Kim et al. co-pending application No. 10/564,030 is the only remaining rejection, therefore the provisional rejection of claims 1-9 and 16 under the obviousness-type double patenting has been withdrawn. Since claims 10-13 and 17

have been canceled, the provisional rejection of claims 10-13 and 17 under the obviousness-type double patenting is obviated herein.

8. Claims 1-9 and 16 are neither anticipated nor rendered obvious over the art of record, and therefore are allowable. The closest reference is Trotter et al. WO 2003035615. The difference between the reference and instant claims is that the instant compounds have not been found. A suggestion for modification of above reference to obtain the instant compounds has not been found. Claims 1-9 and 16 are allowed.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance".

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rei-tsang Shiao whose telephone number is (571) 272-0707. The examiner can normally be reached on 8:30 AM - 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph K. McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/REI-TSANG SHIAO /
Primary Examiner, Art Unit 1626

October 29, 2008